1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

SOURCE: 53 FR 31658, Aug. 19, 1988, unless otherwise noted.

Subpart A—General Provisions

§ 72.1 Purpose.

The regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel, power reactor-related Greater than Class C (GTCC) waste, and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation (ISFSI) and the terms and conditions under which the Commission will issue these licenses. The regulations in this part also establish requirements, procedures, and criteria for the issuance of licenses to the Department of Energy (DOE) to receive, transfer, package, and possess power reactor spent fuel, high-level radioactive waste, power reactor-related GTCC waste, and other radioactive materials associated with the storage of these materials in a monitored retrievable storage installation (MRS). The term Monitored Retrievable Storage Installation or MRS, as defined in §72.3, is derived from the Nuclear Waste Policy Act (NWPA) and includes any installation that meets this definition. The regulations in this part also establish requirements, procedures, and criteria for the issuance of Certificates of Compliance approving spent fuel storage cask designs.

[66 FR 51838, Oct. 11, 2001]

§ 72.2 Scope.

(a) Except as provided in §72.6(b), licenses issued under this part are limited to the receipt, transfer, packaging, and possession of:

(1) Power reactor spent fuel to be stored in a complex that is designed and constructed specifically for storage of power reactor spent fuel aged for at least one year, other radioactive materials associated with spent fuel storage, and power reactor-related GTCC waste in a solid form in an independent spent fuel storage installation (ISFSI); or

(2) Power reactor spent fuel to be stored in a monitored retrievable storage installation (MRS) owned by DOE that is designed and constructed specifically for the storage of spent fuel aged for at least one year, high-level radioactive waste that is in a solid form, other radioactive materials associated with storage of these materials, and power reactor-related GTCC waste that is in a solid form.

(b) The regulations in this part pertaining to an independent spent fuel storage installation (ISFSI) and a spent fuel storage cask apply to all persons in the United States, including persons in Agreement States. The regulations in this part pertaining to a monitored retrievable storage installation (MRS) apply only to DOE.

(c) The requirements of this regulation are applicable, as appropriate, to both wet and dry modes of storage of—

(1) Spent fuel and solid reactor-related GTCC waste in an independent spent fuel storage installation (ISFSI); and

(2) Spent fuel, solid high-level radioactive waste, and solid reactor-related GTCC waste in a monitored retrievable storage installation (MRS).

(d) Licenses covering the storage of spent fuel in an existing spent fuel storage installation shall be issued in accordance with the requirements of this part as stated in §72.40, as applicable.

(e) This part also gives notice to all persons who knowingly provide to any licensee, certificate holder, applicant for a license or certificate, contractor, or subcontractor, components, equipment, materials, or other goods or services, that relate to a licensee's, certificate holder's, or applicant's activities subject to this part, that they may be individually subject to NRC enforcement action for violation of §72.12.

(f) Certificates of Compliance approving spent fuel storage cask designs

shall be issued in accordance with the requirements of subpart L of this part.

[53 FR 31658, Aug. 19, 1988, as amended at 56 FR 40692, Aug. 15, 1991; 63 FR 1900, Jan. 13, 1998; 64 FR 33183, June 22, 1999; 64 FR 56121, Oct. 15, 1999; 66 FR 51838, Oct. 11, 2001]

§ 72.3 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

Affected Indian tribe means any Indian tribe—

(1) Within whose reservation boundaries a monitored retrievable storage facility is proposed to be located;

(2) Whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided,* That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe.

Affected unit of local government means any unit of local government with jurisdiction over the site where an MRS is proposed to be located.

As low as is reasonably achievable (ALARA) means as low as is reasonably achievable taking into account the state of technology, and the economics of improvement in relation to—

(1) Benefits to the public health and safety,

(2) Other societal and socioeconomic considerations, and

(3) The utilization of atomic energy in the public interest.

Atomic energy means all forms of energy released in the course of nuclear fission or nuclear transformation.

Byproduct material means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

Certificate holder means a person who has been issued a Certificate of Compliance by the Commission for a spent fuel storage cask design.

Certificate of Compliance or *CoC* means the certificate issued by the Commission that approves the design of a spent fuel storage cask in accordance with the provisions of subpart L of this part.

Commencement of construction means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings or excavations to determine subsurface materials and foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Construction of environmental monitoring facilities;

(3) Procurement or manufacture of components of the installation; or

(4) Construction of means of access to the site as may be necessary to accomplish the objectives of paragraphs (1) and (2) of this definition.

Commission means the Nuclear Regulatory Commission or its duly authorized representatives.

Confinement systems means those systems, including ventilation, that act as barriers between areas containing radioactive substances and the environment.

Controlled area means that area immediately surrounding an ISFSI or MRS for which the licensee exercises authority over its use and within which ISFSI or MRS operations are performed.

Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

(1) Release of the property for unrestricted use and termination of the license; or

(2) Release of the property under restricted conditions and termination of the license.

Design bases means that information that identifies the specific functions to be performed by a structure, system, or component of a facility or of a spent fuel storage cask and the specific values or ranges of values chosen for controlling parameters as reference bounds for design. These values may be